

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

WALDMAN & KAPLAN, P.A.

By: Farha Ahmed, Esquire

174 Nassau Street, Suite 313

Princeton, NJ 08542

PO BOX 5162 Largo FL 33779

Telephone: 884-899-4162

Facsimile: 884-882-4703

Attorneys for Secured Creditor: Kingdom RCG

Evergreen Fund Series I, LLC

In Re:

Richard T. Huesser,

Debtor.

Case No.: 25-11150-ABA

Chapter: 13

Hearing Date:

Judge: Andrew B. Altenburg Jr.

**SECURED CREDITOR, KINGDOM RCG EVERGREEN FUND SERIES I, LLC'S  
OBJECTION TO CHAPTER 13 PLAN [DOC. NO. 13]**

**COMES NOW, SECURED CREDITOR**, Kingdom RCG Evergreen Fund Series I, LLC (herein after referred to as "Secured Creditor"), by and through its undersigned counsel, and hereby files this Objection to the Chapter 13 Plan [Doc. No. 13] filed by the Debtor and States as grounds the following:

1. On or about February 3, 2025, the Debtor filed a Voluntary Petition under Chapter 13 of the Bankruptcy Code.
2. On or about March 9, 2025, the Debtor filed the proposed Chapter 13 Plan [Doc. No. 13].
3. Secured Creditor claim is secured by a mortgage encumbering the real property owned by Debtor located at 1401 Peden Avenue, West Deptford, NJ 08093 (hereinafter "The Property").
4. Secured Creditor is the owner and holder of the note and mortgage and has the right to enforce the note and mortgage.
5. Secured Creditor has or will timely file its proof of claim in the matter.

6. As of the date of filing the instant bankruptcy, Secured Creditor's arrears were \$89,761.64, which the Plan proposes to pay \$0.00 over the course of 60 months, leaving a deficiency in the amount of pre-petition arrears in the amount of \$89,761.64. A Plan which does not pay all of the pre-petition arrears in full does not result in a discharge and entitles Secured Creditor to seek its rights under the Mortgage under *In re Euliano*, 442 BR 177 [Bankr. D. Mass. 2010].
7. Furthermore, the Debtor's schedules I and J show that the Debtor will have difficulty trying to pay as stated in the Plan to Secured Creditor given the fact that Debtor should be paying approximately \$1,496.03 towards the arrears every month, on top of a regular monthly payment of \$655.03, for a monthly payment totaling \$2,151.06 to Secured Creditor every month. Even if the Debtor amended the Plan, it will be difficult for the Debtor to maintain the proposed plan payments taking into account the Debtor's expenses combined with the claims of all other creditors, if any. Therefore, the confirmation of the proposed Chapter 13 plan should be denied pursuant to 11 U.S.C. §1325(a)(6) because the Debtor will not be able to make all payments under the Plan or comply with the Plan. The Debtor lacks the income necessary to cure the arrearages with all other creditors and pay the Debtor's expenses.
8. Secured Creditor is entitled to attorneys' fees pursuant to 11 U.S.C. §1322(e). Said fees should be added to the balance of the Note and Mortgage pursuant to the terms of the loan documents, but not added to the Debtors personal obligation once a discharge is received.

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**WHEREFORE, PREMISES CONSIDERED,** Secured Creditor prays that the Debtor's Chapter 13 Plan be amended to include the correct arrearage payment to Secured Creditor or grant Secured Creditor *in rem* relief from stay together with fees as set forth in paragraph 8 above, and for any other relief this Honorable Court deems Secured Creditor is entitled.

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was provided via electronic and/or Regular U.S. Mail to the parties listed on the attached certificate of service this 21<sup>st</sup> Day of May 2025.

**I HEREBY CERTIFY** that I am admitted to the Bar of the United States Bankruptcy Court for the District of New Jersey, and I am in compliance with the additional qualifications to practice in this Court set forth in the Local Rules.

**Waldman & Kaplan, P.A**  
174 Nassau Street, Suite 313  
Princeton, NJ 08542  
Telephone: 844-899-4162  
Facsimile: 844-882-4703  
Email: [farha@dwaldmanlaw.com](mailto:farha@dwaldmanlaw.com)  
Attorneys for Secured Creditor

By: /s/ Farha Ahmed  
Farha Ahmed, Esq.  
Attorney ID # 01062-2009